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April 2, 2012
Mr. Corbin Davis
Clerk of the Court
Michigan Supreme Court
PO Box 30052
Lansing, MI 48909

Re: ADM File 2006-47

Dear Clerk Davis:

Please consider the following comments from the Michigan Court Administrators'' Association.

- MCR 1.109 (A)(1)(a) – The term "records" is confusing. We recommend that the rule specify "court" records in (a), (i) and (ii).
- MCR 3.101 – We have two major concerns:
    - The proposed amendments do not provide a meaningful standard for the issuance of garnishments. Garnishments contain the highest frequency and percentage of errors and a meaningful standard for issuance is needed. We have seen no problems with the current language in MCR 3.101(D) and request that it not be revised.
    - Although we support the elimination of disclosures, the requirement in MCR 3.101 (H) to maintain any disclosures filed with the court as non-public will create a new problem because the court currently has no control over superfluous garnishments filed by garnishees. We recommend that language be included to state any disclosure filed with the court that is not part of a motion or other pleading may be discarded or returned by the court.
- MCR 8.119 (C) – We recommend that it read as follows: "…and kept pursuant to MCR 8.108 are court records and are **not** subject to access in accordance with subrule (H)." There are many times that private conversations between attorneys and their clients may be picked up on the audio recordings during court proceedings; public disclosure of these conversations could violate the attorney client privilege. A court recorder or reporter knows that these conversations are not part of the official court record and would not be transcribed. Requiring courts to allow access to these audio recordings defeats the whole purpose for having court recorders and reporters.
- MCR 8.119 (H) - We recommend that the phrase "except as otherwise provided in subrule (F)" be deleted. It also appears that the proposed MCR 8.119 (H) allows persons or parties to purchase copies of transcripts directly from the clerk of the court and not the court reporter. This seems to be a departure from some trial court's current procedures and may prevent court recorders from being able to charge the statutory fee for copies of transcripts. See MCL 600.2543 and 600.1491(2)(b)
- MCR 8.119 (J)(4) – We recommend that this be revised to say, "**If a court creates a new record,** the clerk shall provide access to the new record upon receipt of the actual cost of creating the record. Subsection (4) starts out by saying , "A court is not required to create a new record out of its existing records" but then subsection (c) says, "If a person requests the creation of a new record, the clerk shall provide access to the new record upon receipt of the actual cost of creating the record." This is contradictory and may be an oversight.

Thank you in advance for your consideration.

Sincerely,

Tabitha Wedge

Tabitha Wedge
MCAA President